

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of DOW C. LOWE and U.S. POSTAL SERVICE,
POST OFFICE, Philadelphia, PA

*Docket No. 02-1552; Submitted on the Record;
Issued December 19, 2002*

DECISION and ORDER

Before MICHAEL J. WALSH, ALEC J. KOROMILAS,
A. PETER KANJORSKI

The issue is whether appellant has met his burden of proof in establishing that he developed a shoulder condition due to his employment duties.

Appellant, a 52-year-old mailhandler, filed a notice of occupational disease on November 10, 2001 alleging that he developed shoulder pain as a consequence of his mailhandler duties. He stated that he first became aware of his condition on October 18, 2001 and first connected this condition to his work duties on October 20, 2001. Appellant did not stop work and indicated that he planned to seek medical treatment on November 19, 2001.

In a letter dated November 20, 2001, the Office of Workers' Compensation Programs requested additional factual and medical evidence from appellant and allowed 30 days for a response. The record does not contain a response within the 30-day period. By decision dated January 7, 2002, the Office denied appellant's claim finding that he failed to establish that he sustained an injury due to his employment.¹

The Board finds that appellant has failed to meet his burden of proof in establishing that his shoulder condition was due to his employment duties.

To establish that an injury was sustained in the performance of duty in an occupational disease claim, a claimant must submit the following: (1) medical evidence establishing the presence or existence of the disease or condition for which compensation is claimed; (2) a factual statement identifying employment factors alleged to have caused or contributed to the presence or occurrence of the disease or condition; and (3) medical evidence establishing that the employment factors identified by the claimant were the proximate cause of the condition for which compensation is claimed or, stated differently, medical evidence establishing that the

¹ Following the January 7, 2002 decision, appellant submitted additional evidence received by the Office no earlier than January 18, 2002. As the Office did not consider this evidence in reaching a final decision, the Board will not review it for the first time on appeal. 20 C.F.R. § 501.2(c).

diagnosed condition is causally related to the employment factors identified by the claimant. The evidence required to establish causal relationship is rationalized medical opinion evidence, based upon a complete factual and medical background, showing a causal relationship between the claimed condition and identified factors. The belief of a claimant that a condition was caused or aggravated by the employment is not sufficient to establish causal relation.²

Appellant failed to meet his burden of proof at the time of the Office's January 7, 2002 decision as he failed to submit any medical evidence diagnosing a condition, he failed to provide a factual statement identifying the specific employment duties which he felt contributed to his shoulder condition and he failed to provide the necessary medical evidence establishing that the specific employment duties he identified were responsible for the diagnosed condition. The only evidence before the Board is the claim form completed by appellant in which he states that he has shoulder pain. As appellant is not a physician, this form cannot establish his condition.³

The January 7, 2002 decision of the Office of Workers' Compensation Programs is hereby affirmed.

Dated, Washington, DC
December 19, 2002

Michael J. Walsh
Chairman

Alec J. Koromilas
Member

A. Peter Kanjorski
Alternate Member

² *Lourdes Harris*, 45 ECAB 545, 547 (1994).

³ *Merton J. Sills*, 39 ECAB 572 (1988).